

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
May 10, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 10, 2016 at 6:30 PM in the Auditorium, City Hall.

Members in attendance were:

Gerry Reppucci, Chair
Jack Currier, Vice Chair (arrived at 6:45 p.m.)
J.P. Boucher, Clerk
Mariellen MacKay (left at 7:00 p.m.)
Rob Shaw
Kathy Vitale

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

- 1. One Chestnut Street Limited Partnership (Owner) First Sign & Corporate Image, Inc. (Applicant) 1 Chestnut Street (Sheet 80 Lot 1) requesting variance to exceed maximum wall sign area, 100 square feet allowed, 200 square feet existing, two additional wall signs at 375.5 square feet each proposed for east and west elevations for a total of 951 square feet. GI/MU Zone, Ward 4. [TABLED FROM 4-12-16 MEETING]**

Voting on this case:

Gerry Reppucci
J.P. Boucher
Mariellen MacKay
Rob Shaw
Kathy Vitale

Scott Aubertin, First Sign & Corporate Image, Manchester, NH.
Mr. Aubertin said that they have taken a detailed analysis and look at the Boards comments and feedback from the last meeting, and re-evaluated what they are proposing.

Mr. Aubertin said that they looked at each sign individually. He said that they believe the elevation facing the Broad Street Parkway is much more important, so the sign facing Chestnut Street was eliminated, and to just focus on the sign facing the Parkway. He said that they also evaluated the size of the sign there, and said that they provided a series of photographs with corresponding numbers on a map so that the Board can get a concept of what you'd see from different points on the Parkway. He said it is very important for them to have a legible sign to be read from the Parkway, and the sign was also reduced in size by 10% from the original proposal, which was for 375 square feet, and now its 338 square feet.

Mr. Aubertin said that the sign is less than 3% of the building fascia, it's huge, it's 80 feet high, and the building itself is over 430,000 square feet of space. He said that they believe that the sign is proportional to the building and given the setback, it's over 300 feet from the road, and the sign is eight stories high, so by virtue of that distance, the sign won't look as large as it sounds, and it's proportionate and aesthetically pleasing to the building.

Mr. Aubertin said that the Board asked about readability distance of the size of the letters, and said that its difficult, as there are many factors, as there are trees, power lines, and a lot of obstructions, and the road has curves and it's not like you're standing directly in front of it, you only have a moment to take your eye off the road to view the sign. He said that the sign is designed to re-brand the property using the address as the major part of it, making it known as the One Chestnut Street building, and it will be helpful for people to locate the building. He said that the Millyard Office building was granted a variance to place three signs on their building, at 100 square feet each, but that building is right on the Parkway, and there is visibility for that building on both directions, and its visible for a longer time.

Mr. Boucher asked if the sign will be illuminated.

Mr. Aubertin said the letters are individually internally illuminated channel letters, with LED's inside them, so they'll glow white at night.

Mr. Reppucci said that when he looked at picture #6, and asked if the sign superimposed on the picture is an accurate depiction

of what it would look like, to scale.

Mr. Aubertin said that the sign is accurately shown to scale, so it should be fairly representative of what the sign would look like on the building.

Ms. Vitale asked if they are going to keep the existing sign on the Chestnut Street side.

Mr. Aubertin said yes, on that side, there are smaller letters that just say the address, they'll stay, and there is that 100 square foot sign on the far right hand corner that will also remain.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Shaw said that he appreciates the scaling back of the sign, and dimensionally, it's more reasonable.

Ms. Vitale said that she believes the request is completely reasonable, the building is a destination point for a lot of people, and it will definitely help.

Mrs. MacKay agreed, she said it's a really good plan, and they'll be allowed to advertise what they need to advertise, and it will be aesthetically pleasing and nicely done.

Mr. Boucher agreed with other Board member comments.

Mr. Reppucci said he feels the same way, the pictures helped a lot.

MOTION by Mr. Shaw to approve the variance application as advertised on behalf of the owner. Mr. Shaw said that with the revisions by the applicant, it's now one additional wall sign at 338 square feet for a total of 538 square feet.

Mr. Shaw said that the variance is needed to enable the applicant's proposed use of the property, given the special

conditions of the property, it is a very large structure and some of the roadway approaches to the building are fairly limited, and the primary approach and what is expected to be the most heavily traveled approach to the site is from the Broad Street Parkway, so the signage is to bring the sign on the building to be seen from the Broad Street Parkway.

Mr. Shaw said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Shaw said that Currier said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Reppucci said that the Board has received the letter from Mr. Porter. He said that he believes it's a request for the Board to re-consider our decision, and it's within the 30-day window. He's asking us to amend our motion. He said he's not sure if it's a rehearing request, or a request for us to open the case and amend our motion. He said that he believes that the Board can take the case off the table and consider his input.

Mr. Shaw said that he read somewhere in the correspondence that it's not a rehearing request, and he thought that Mr. Porter was asking for was something along the lines of essentially future consideration. He said he's not sure of the real intent of the letter.

Mr. Reppucci read the last paragraph of the letter. He said that there's really nothing the Board can do unless the case is re-opened.

Mr. Currier said that he feels that the only vehicle the Board has to amend it is to rehear it. He said he's not sure if the Board can take it off the table and then make an amendment and vote on it again.

Mr. Reppucci said that the case for 74 Cox Street says that we can do that. He said that the Court said that within the 30-day

window, the Board can rectify any mistake the Board thinks it made within the window of time.

Mr. Shaw said that he thinks that Mr. Porter may not realize the roles of the different Boards and Commissions within the City, and thinks that he's attributing extra power to what we have the ability to do. He said the case was a special exception and we approved it based on the criteria before us and the limited scope of what that requires. He said that the Board could reopen it, because we are within the 30 days.

Mr. Reppucci said he's confident that the Board can.

MOTION by Mr. Reppucci to take the case off the table for further discussion.

SECONDED by Mr. Currier.

Mr. Shaw said he first wants to establish whether we believe there is even merit for taking the case off the table. He said his concern is that we are essentially taking some action on the case by approving to re-open it.

Mr. Boucher said he's agreeing with Mr. Shaw, he said on face value, he's looking at the reason to do that is. He said that he doesn't see the validity or the value of doing that, because he didn't see the reason behind it.

Mr. Reppucci said that he believes that this is purely a procedural thing. He said that the Board shouldn't discuss any element of the case without taking it off the table. He said that this is a concerned citizen who is asking the Board to reconsider something that we did. He said that the Board can either decide not to consider it, or we can decide to reconsider it.

Mrs. MacKay said that in her opinion, discussion around a motion or the validity of the motion, any discussion of it has to be removed from the table to have a discussion on it.

MOTION CARRIED UNANIMOUSLY 5-0.

At this point, Mrs. MacKay left the meeting and Ms. Vitale will be voting.

Mr. Reppucci said that what we have is a person who doesn't understand the procedural steps, and where and when things might happen. He said that his sense of what he's asking us to do is that it's not a proper thing for allowing a permit to work within a wetland buffer. He said that his suggestion that the Board remove the stipulation without discussion, that's another misunderstanding where we didn't specifically speak to it in the motion to the detail he would like. He said that he wouldn't consider amending the Board's original decision.

Mr. Shaw said that the letter didn't really bring forth any new request; it was restating what he wanted to do when he brought forward his original testimony during the public hearing.

Mr. Currier said that he was the only one who wanted the stipulation to be there. He said that Mr. Porter's letters mentioned that he wasn't suggesting, or that some members of the Board felt that he was suggesting having public access while the mitigation was going on. He said that even though he'd like the easement to be there, he didn't feel that there is enough to overturn the decision on that.

Mr. Reppucci said that the length and depth of our discussion at the public hearing was much greater than was summarized in Mr. Porter's letter. He said that the record of our discussion was clear, too.

Mr. Currier asked if this plan will be required to go to the Planning Board.

Mr. Falk said that nothing has been submitted yet, but if it's going to be a subdivision plan, it will.

Mr. Currier said that the Planning Board discusses sidewalks, and public ways, and the easement could come up, or be stipulated. He said even though the vote didn't go his way, it wasn't a deal breaker, as there is still the review by the Planning Board.

Ms. Vitale said that the Planning Board is the proper Board that would review something like the easement. She said it would be too early to include it now.

MOTION by Mr. Reppucci to keep the decision as it is. He said that he's not inclined to change what the Board did, the Board was very thorough, and there is no reason to re-visit what the Board did, and that our decision should just stand as is. He said he has a written response to Mr. Porter and will offer that in the public record.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REGIONAL IMPACT:

The Board determined that there are no cases of Regional Impact.

REHEARING REQUESTS:

None.

MINUTES:

4-12-16:

MOTION by Mr. Reppucci to approve the minutes, waive the reading, and place them in the permanent file.

SECONDED by Mr. Shaw.

MOTION APPROVED UNANIMOUSLY 5-0.

ADJOURNMENT:

Mr. Reppucci called the meeting closed at 7:30 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing